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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,403	12/19/2001	Brian K. Doyle	ADV12P302A	4925

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EXAMINER	
TRAN LIEN, THUY	

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/025,403	DOYLE ET AL.	
	Examiner	Art Unit	
	Lien T Tran	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 November 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5,7,8,11,12,14-17,19,20,22-27,29-33 and 35-62* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5,7,8,11,12,14-17,19,20,22-27,29-33 and 35-62* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claims 1,24,41,43,45,46,48,49,52,54,55,57,59 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In the amendment filed Nov. 16, 2004, applicant amends the claim to recite the limitation " the coating is substantially clear after cooking"; this limitation is not supported by the original disclosure. The specification does not state anything about the coating being " substantially clear after cooking". In the response, applicant makes reference to the provisional applications which are incorporated by reference. The coating is an essential material in the claimed product and process. Incorporation by reference of essential material can only be made to a US patent, a US patent application publication or a pending US application. Also, the amount of rice flour of 10% and the inclusion of dextrin in the coating are not disclosed in the specification or the original claims.

Claims 1,24,45,46,48,54,55,57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In all relevant claims, the term " substantially clear" is indefinite because it is not known what would be considered as substantially clear. The specification does not disclose that the coating is clear; thus, the specification does not give meaning to the term. The scope of the claim cannot be determined.

Claims 1-2,5,7-8,11-17,19,22-27,29-31,32-38,39,40-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cremer in view of Friedman et al (5928693).

Cremer discloses a method of producing French fried potatoes from dehydrated potato granules or flakes. The dry potato product is mixed with a binber comprising starches to form a dough and the dough is placed in an extruder or other device which may form the dough into various shapes. The formed product is fried in oil. The extruded product can also be frozen and fried at a later time. (see columns 5-6)

Cremer does not disclose coating the potato product with a coating comprising starch components, coating comprising 10% rice flour and dextrin, the shape having slender and elongated portion, a waffle and pancake shape, baking the product, adding egg, parfrying and then frozen, the overall thickness of not more than about 4 cm, making a waffle shape, finish-cooking in a toaster, shape which emulates slice of a natural food, predusting with dry particulate starch and adding a stabilizer as cited in claim 50,53.

Friedman et al disclose a clear coat composition for potato products. The coating comprises starch, about 5-25% dextrin and about 5-25% rice flour. The coating improves the eating quality of the fried potato product in term of crispness. The coating also improves the cripness, toughness and toothpack of fried product held under heat lamp. (see col 1 line 45 through col. 2 line 10)

It would have been obvious to coat the Cremer potato product with the clear coating disclosed by Friedman et al for the advantage disclosed by Friedman et al. It would also have been obvious to dust the food product with flour or starch to prevent

sticking of the product to the working surface and to enhance the crispness of the product. It is well known in the art to coat food product with flour or starch before frying to make the product crispy. It would also have been obvious to make the product in any shape and form including waffle and pancake shape; this is a matter of design form and would have been a matter of preference. French fries products come in many different shape and Cremer teaches the dough can be formed into various shapes. It would also have been obvious to make the product to have any varying thickness depening on the texture desired. Thin product gives a crunchy texture while thicker product gives a more mealy texture; one can choose thin, thick or any variance in between. It would have been obvious to add a stabilizer such as gum or carboxymethylcellulose or carrageen to control the viscosity of the dough. All these additives are well known thickening agents that are commonly added to dough product. Adding an additive for its art-recognized function would have been obvious to one skilled in the art. It would have been obvious to parfry the product before freezing to reduce the reheating time when the product is ready for consumption. This concept is well known in the art. It would have been obvious to use any known cooking device for reheating. A toaster oven is well known to be used to reheat many products including pizza, tater tots, roll etc...It would have been obvious to bake the product instead of frying when one wants to reduce the fat content of the product. Cremer teaches to add a binder to the dough; thus, it would have been obvious to add egg to enhance the binding because egg is a commonly used binding agent.

Claims 1 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Junge.

Junge disclose a food product in which a coating of starch slurry is applied to the food product. The food product is a dough covered food product. (see col. 2 lines 51-65)

While Junge teaches to fry the product, it would have been obvious to one skilled in the art at the time of the invention to bake the product when desiring to reduce the fat content of the product. As to the coating being substantially clear, this is not known what would be considered as substantially clear. Since the coating in Junge is made of the same material as the claimed coating, any property resulting from the coating will obviously be present in the Junge coating.

Applicant's argument and the declaration have been considered, but are deemed to be moot in view of the new rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Wed-Fri.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 1, 2004

Lien Tran

LIEN TRAN
PRIMARY EXAMINER
Group 1700